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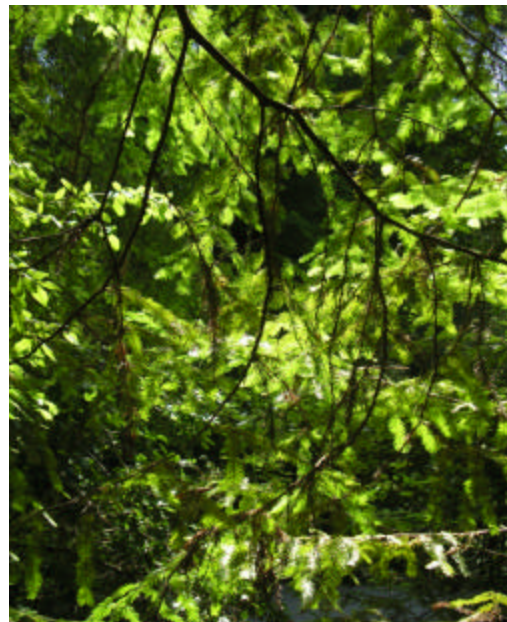
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#49 *Walking Among Great Trees: A Meditation on Heritage*

Heritage is an interesting concept. It includes perceptions of both past and present, and shared as well as individual experience. The boundaries of heritage are elastic, comprehending anything and everything that, taken together, contributes to who and what we feel we are.

For most, the concept of heritage includes elements as disparate as the national ideals held by our forebears, our common literary and artistic heritage, and the great cities, architectural icons, and natural wonders of our nations. Our perceptions of heritage help bind us with our families, our neighbors and our fellow countrymen, each in a different way. But in each case, the tie that binds us together is our shared values, experiences and reference points. In a real sense, it is how we tell "us" from "them." And in consequence, each of us has a sense that we have some sort of inchoate claim of ownership upon the tangible as well as the intangible things that by their connotations have somehow become part of our heritage.

These feelings are so universal, and arise so naturally, that they seem incontestable. But if they are so obvious, why do we not have legal rights in our "heritage?" How is it, then, that the wrecker's ball, the developer's bulldozer, and the logger's skidder can take away something in a day that we have taken for granted for a lifetime?



How indeed? And is this as it should be? When something treasured is lost, questions occur to us, such as whether the laws should change to better prevent the loss of our heritage the next time around. But as quickly may occur another concern: what protections should there be for those that have traditional legal rights in the same property?

The elements of heritage can take many forms. They can be intangible, such as our history, and therefore subject to the ownership claims of no one. Or they can be owned by individuals but widely available, such as works of literature still under the protection of copyright. Or they can be in the physical possession of individuals that reserve them for their personal enjoyment (such as a great painting that passes from a museum into private ownership).

I find the relationship between heritage and property rights to be both interesting and important, in part because the validity of a communal claim that is widely felt can at the same time have no legal basis, and therefore no protection at all. Unlike most property rights that inevitably find their way into statutes, heritage rights to tangible property of value are more honored in the breach, either by outright donation to trusts by the title owners of the property in question, or through purchase by non-profits or the government itself. In each case, no one needs to explain why such a transaction should occur, even in the case of the expenditure of public or tax-exempt funds to secure the property for common enjoyment or protection.

Nonetheless, because tangible elements of heritage can have great value, there is tension between their status as property subject to individual ownership, and the rights of others that feel a close personal attachment, and even a shared entitlement, to that property. The sphere of those that feel so entitled can be very large and even surprising as well, especially when the property in question is threatened.

Recall, for example, the global outcry when the Taliban in Afghanistan threatened to blow up, and then did destroy, the monumental Buddhas of Bamyán in 2001. Those on the other side of the world, from other cultures and practicing other religions, could hardly claim any individual or national rights in such statues in any national, let alone traditional property sense. But the sense of shock, anger and loss was palpable for many that felt that in some way their lives and, for want of a better word, their heritage had been violated. The best explanation for such a widely felt reaction may be that the more precious and incredible the work of art or architecture at risk, the more likely we are to feel that somehow the icon in question is inextricably tied up in the reality of who we are. Or perhaps because it reveals what humans have been capable of accomplishing in the past, and therefore provides hope that much can still be expected from us in the future, however dreary the evening news.

So also it is with natural wonders as well. Millions of Americans visit natural wonders such as the rain forests of Costa Rica and the Great Barrier Reef of Australia every year. There is even a word for such travels now: "ecotourism." Despite the location of these natural treasures beyond our national boundaries, we would find it no more acceptable for our ability to experience their beauty to be withdrawn than would Europeans accept a decision by our government to reserve the Grand Canyon for the appreciation of Americans alone.

I have said that the law does not recognize heritage rights, but this is not completely true. There is an emerging recognition that even if such rights do not exist in a legal sense as claims superior to the owners of property, there should nonetheless be a means by which heritage rights can be recognized and secured for the public benefit. Nationally, laws such as the Antiquities Act of 1906, signed into law in the United States by President Theodore Roosevelt, permit a president to set aside public lands as National Monuments, in order to protect antiquities and other resources.

The concept of a global heritage in both natural as well as architectural resources has also been recognized, through the creation of the *Convention Concerning the Protection of World Cultural and Natural Heritage*, which was adopted by the General Conference of UNESCO on [16 November 1972](#). Today, over 180 nations are party to this agreement, and as of 2006, over 830 cultural, natural and mixed sites had been granted status under the treaty as "World Heritage Sites."

Perhaps the most interesting and important legal aspect of this treaty is that it implicitly recognizes that we have a moral duty to generations unborn. Given the propensity of those living today to exhaust finite resources and emit greenhouse gases as if there was (literally) no tomorrow, we may ultimately come to believe that those not yet born have real legal rights, and not just moral entitlements. Perhaps we may even conclude that our descendants, like orphaned minor children, are in need of a court-appointed guardian to protect their patrimony.

For now, though, the ability to conserve heritage sites in most countries depends upon the willingness of owners to cooperate with conservation efforts. Property owners who are otherwise sympathetic but not disposed (or financially able) to make charitable donations have therefore been compensated for the lost value of the restrictions placed upon their properties. As a result, many worthy sites have been preserved, sometimes from government action. But by no means have all national treasures been saved. After all, while the Grand Canyon continues to amaze, equally spectacular vistas just upstream on the Colorado River were lost to view when the Glen Canyon Dam was built, creating Lake Powell. Hard though it may be believe it today, the Grand Canyon itself narrowly escaped the same fate. And indeed, the treaty that created the World Heritage Site process arose from the intent of Egypt to flood countless Egyptian antiquities through construction of the Aswan High Dam. Only through an international funding and engineering effort, monumental in its own right, were a significant number of these treasures saved.

But what if an owner is not disposed to cooperate? Does a canyon here or a forest there, more or less, make a difference? And if so, where does one draw the line? Property rights are understandably precious, and the sanctity of land ownership is part of our heritage as well. The world over, attachments

to the land are fierce, and the very ability to survive can be inextricably linked to the possession of even a few acres. Popular movements in some developing nations continue to wrestle with entrenched oligarchies, seeking the redistribution of land to the poor. And in years past, countless millions of (mostly) Europeans left all – including much of their own heritage – behind to seek land in the Americas.

Where then, do we find the balance? Where is the dividing line between the heritage rights of the many, and the property rights of the few?

Perhaps the best place to look for answers may be in a quiet place. Perhaps a walk in the woods is the place to consider such questions, as I did recently. Not just any woods, of course, but a woods conducive to thinking deep thoughts about our heritage in the natural world.

One such forest can be found in California's [Big Basin State Park](#), which was created in 1902 by those concerned over the rampant logging of old growth redwood groves. Through progressive purchases, it now comprises over 18,000 acres of redwood forest and other habitat, and includes the largest continuous stand of these great trees south of San Francisco. That city is only a short drive away, and the park offers over 80 miles of trails to those seeking an oasis of tranquility and transcendent natural beauty to relieve the strains of modern life.

A red wood grove is a place of stillness. Winds do not reach the forest floor, nor much direct light. Only the quiet clicking of insects filters down, and the occasional distant squawk of a Steller's Jay, offended by some unseen intruder. At intervals, narrow streamlets trickle silently and sinuously through the accumulated forest debris, barely cutting into the alluvial soils beneath.

In the near distance overhead, an understory of tan oak and shrubbier trees, none thicker than your leg, scatter their branches. That sparse tracery is dappled by what little light penetrates the redwood canopy far above, and in turn dapples with shadow the occasional glade below. And everywhere, in groups of five, ten, or a hundred, stand the enormous columns of the great trees themselves.

The trunk of each redwood has a character all its own. Some are striated with near-parallel ribs of thick, protective bark. The bases of others seem cramped by gnarled, encircling tendons, resembling great and ancient hands that have seen too long a lifetime of hard use. Others sport neat nets of interlacing lines spreading at the base, and narrowing into orderly, parallel lines as they ascend. Some trunks are grey; others reddish brown. Where lightning has sparked a fire, they may sport a tortoise shell pattern of charred black on brown, reminiscent of circular, printers' woodblocks, already inked and ready to roll their images upon some enormous unseen surface, recording the price of their survival.



Mature redwoods rise eighty or a hundred feet before spreading their first branch. Then the trunks vanish into the canopy of proliferating greenery, attaining a height that can only be guessed. Except, that is, when your trail strikes a diagonal up the side of one of the deep, fog-filled ravines in which redwoods thrive, nurtured by the moisture wafted in from the sea and protected from the wind through most of their height by the ridges that enfold them. On such a trail, you can sometimes appreciate the full grandeur of a redwood, as you look both down and up from your vantage point. More than a hundred and fifty feet in each direction, perhaps, you can at last glimpse the giant from base to crown.



Redwoods and their close cousins, the Giant Sequoias, may lay claim to being some of the only living things that never die of simple old age. Instead, they are ultimately rent by lightning or overthrown by the wind. Or they simply fall, when their incredible mass proves too much for the superficial root system that strives for purchase in the shallow soils in which the redwoods grow.

When they do meet their end, they begin a long and gentle progress of return to the earth. At first, they may stand awhile as tilted snags, supported by their neighbors. But after a period of days or years they inevitably complete their downward journey. The largest startle in their enormity, looking vastly larger in the horizontal, in full view, than ever they could rising vertically into the pervasive canopy above. Over time, a fallen tree literally sinks into the earth, its hollowed, shattered end sometimes emerging at an angle for a time, extending like the savage jaws of some monstrous sea creature of the Silurian age. Along the backs of many fallen trees sprout lines of saplings, rooted in the fog-dripped moss that grows wetly on their bark. Centuries on, the straight line laid out by seedlings that survive will mark the resting place of the nurse tree that in death nurtured them from their birth.



Today, less than 4% of the old growth redwoods survive that astonished the first white explorers. And a scant 2.5% of this 4% is protected from logging. That small number of acres is itself subject to natural dangers, including storms, fire, and the floods that can be magnified in intensity by the increased runoff from logged over areas uphill – which sometimes has eradicated entire coastal groves.



Some remaining forests are too small to remain viable in the long term. The accelerating fragmentation of the groves that remain also lessens the long-term survival likelihood of the fauna that call these unique ecosystems home.

The ready accessibility of magnificent groves of trees, such as the Big Basin forest, and the far smaller John Muir forest north of San Francisco, create a false sense of security, as does the enormity of the trees themselves. How could such impregnable giants, lying within state and national parks, be endangered?

And yet they are. Consider the following somber assessment, from the [World Wildlife Organization](http://www.worldwildlife.org) Web site:

Redwood National Park is the only hope for survival of functioning redwood ecosystems, yet even this is questionable given their size and surrounding land use. Jedediah Smith and Del Norte Redwood State Parks are two smaller reserves. Muir Woods and Big Basin towards the south are too small for realistic prospects of long-term conservation of this unique community....

The last Redwood groves on private land, mostly in the Headwater Forest area near the van Duzan River, are under imminent threat of cutting by Pacific Lumber. Compromising agreements between State and Federal agencies and this company leave in doubt the survival of these last remnants. It is unfathomable with the knowledge and resources we have today that there would be any question of total protection of the last remaining groves of these globally unique ecosystems, and unconscionable that the government and citizens of this country have let the destruction continue to this point.



And so we return to the central question of what is to be done. How do we balance the rights of the property owner to its property and the right of future generations to walk among the redwoods?

One way to respond to that question might be to answer this one: how would you explain to a grandchild what it was like to walk among the redwoods, and also why they would never be able to so as well?

How much better to look forward to sharing this precious heritage with the same child, and witness the first dawning wonder reflected in her shining eyes?

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